NEHEMIAH ROBINSON
(Name)

CALIPATRIA STATE PRISON A-5-148
(Address)

CALIPATRIA, CA. 92233
(City, State, Zip)

J-71342
(CDC Inmate No.)

- ORIGINAL -

FILED
JAN 25 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

2254 ____ 1983 ✓
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Yes ____ No ✓
IFP MOTION FILED
Yes ____ No ✓
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Court ✓ ProSe ____

United States District Court
Southern District of California

NEHEMIAH ROBINSON,)
(Enter full name of plaintiff in this action.))

Plaintiff,)

v.)

T. CATLETT ET, AL.,)

(Enter full name of each defendant in this action.))

Defendant(s).)

'08 CV 0161 H BLM
Civil Case No.
(To be supplied by Court Clerk)

Complaint under the
Civil Rights Act
42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.
PLEASE SEE PARAGRAPHS: 7, 19, 30, AND 40, OF THE COMPLAINT.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, NEHEMIAH ROBINSON,
(print Plaintiff's name)
J-71342., who presently resides at CALIPATRIA STATE PRISON, P.O. BOX 5004, CALIPATRIA, CA. 92233
(mailing address or place of confinement)
, were violated by the actions of the below named individuals. The actions were directed against Plaintiff at CALIPATRIA STATE PRISON
(institution/place where violation occurred)
on (dates) ON OR ABOUT 2-06-06 (Count 1), 8-17-07 (Count 2), and 8-23-07 (Count 3) AND 5-23-07 (Count 4).

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2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)
— COUNT 1. —

Defendant T. CATLETT (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a SERGEANT (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT T. CATLETT IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF SERGEANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY "B".

Defendant GARRETT (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CORRECTIONAL OFFICER (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT GARRETT IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B, BUILDING 1, FLOOR OFFICER.

Defendant M. ARVIZU (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CORRECTIONAL OFFICER (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT ARVIZU IS A CORRECTIONAL OFFICER OF CDCR. WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B, BUILDING 1, FLOOR OFFICER.

Defendant W.J. PRICE (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a FACILITY CAPTAIN (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT W.J. PRICE IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF FACILITY CAPTAIN AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B.

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant M. E. BOURLAND resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a CHIEF DEPUTY WARDEN (A). This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT M.E. BOURLAND IS/ WAS THE CHIEF DEPUTY WARDEN (A) OF CALIPATRIA STATE PRISON. HE IS LEGALLY RESPONSIBLE FOR THE OPERATION OF CALIPATRIA STATE PRISON AND FOR THE WELFARE OF ALL THE INMATES AT THE PRISON.

Defendant DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. resides in SACRAMENTO, CALIFORNIA.,
(name) (County of residence)
and is employed as a DIRECTOR OF CDCR. OF CDCR AND, OR SECRETARY. This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR, IS THE DIRECTOR OF CDCR. HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT AND EACH INSTITUTION UNDER ITS JURISDICTION, INCLUDING CALIPATRIA STATE PRISON.

—— COUNT 2. ——

Defendant T. CATLETT resides in IMPERIAL COUNTY.,
(name) (County of residence)
and is employed as a SERGEANT. This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT T. CATLETT IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF SERGEANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B.

Defendant R. JOHNSON resides in IMPERIAL COUNTY.,
(name) (County of residence)
and is employed as a LIEUTENANT. This defendant is sued in
(defendant's position/title (if any))
(his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT R. JOHNSON IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF LIEUTENANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY B.

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant T. OCHOA (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CHIEF DEPUTY WARDEN (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT T. OCHOA IS THE CHIEF DEPUTY WARDEN OF CALIPATRIA STATE PRISON. HE IS LEGALLY RESPONSIBLE FOR THE OPERATION OF CALIPATRIA STATE PRISON AND FOR THE WELFARE OF ALL THE INMATES AT THE PRISON.

Defendant DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. (name) resides in SACRAMENTO, CALIFORNIA. (County of residence), and is employed as a DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT DIRECTOR OF CDCR AND OR SECRETARY OF CDCR, IS THE DIRECTOR OF CDCR. HE IS LEGALLY RESPONSIBLE FOR THE OVERALL OPERATION OF THE DEPARTMENT AND EACH INSTITUTION UNDER ITS JURISDICTION, INCLUDING CALIPATRIA STATE PRISON.

— COUNT 3. —

Defendant WHIDMAN (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a CORRECTIONAL OFFICER (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT WHIDMAN IS A CORRECTIONAL OFFICER OF CDCR WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT WAS ASSIGND TO CALIPATRIA STATE PRISON, FACILITY A, BUILDING 5, ADMINISTRATIVE SEGREGATION, FLOOR OFFICER.

Defendant R. NELSON, JR. (name) resides in IMPERIAL COUNTY. (County of residence), and is employed as a LIEUTENANT (defendant's position/title (if any)). This defendant is sued in (his)/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT R. NELSON, JR. IS A CORRECTIONAL OFFICER OF CDCR, WHO AT ALL TIMES MENTIONED IN THIS COMPLAINT HELD THE RANK OF LIEUTENANT AND WAS ASSIGNED TO CALIPATRIA STATE PRISON, FACILITY A, BUILDING 5, ADMINISTRATIVE SEGREGATION, FLOOR OFFICER.

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant G. J. JANDA resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a ASSOCIATE WARDEN. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN)

— COUNT 4. —

Defendant D. NOREIGA resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a L.V.N. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN.)

Defendant J. M. SALGADO R.N resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a REGISTERED NURSE. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN.)

Defendant M. CORREA resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a (R.N) SUPERVISING REGISTERED NURSE II. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN.)

Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant K. BALL resides in IMPERIAL COUNTY,
(name) (County of residence)
and is employed as a (D.O) (CP&S) CHIEF PHYSICIAN/SURGEON. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN)

Defendant V. O'SHAUGHNESSY resides in UNKNOWN,
(name) (County of residence)
and is employed as a APPEAL EXAMINER. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: (UNKNOWN)

Defendant DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. resides in SACRAMENTO, CALIFORNIA.,
(name) (County of residence)
and is employed as a DIRECTOR OF CDCR AND, OR SECRETARY OF CDCR. This defendant is sued in
(defendant's position/title (if any))
his/her ☑ individual ☑ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: DEFENDANT DIRECTOR OF CDCR AND OR SECRETARY OF CDCR IS THE DIRECTOR OF CDCR. HE IS LEGALLY RESPONSIBLE FOR THE OVER ALL OPERATION OF THE DEPARTMENT AND EACH INSTITUTION UNDER ITS JURISDICTION, INCLUDING CALIPATRIA STATE PRISON.

Defendant ______ resides in ______,
(name) (County of residence)
and is employed as a ______. This defendant is sued in
(defendant's position/title (if any))
his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: ______

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT) 14TH AMEND. (EQUAL PROTECTION / DUE PROCESS); 42 U.S.C § 12131 et. Seq. (ADA); 29 U.S.C § 794 (REHABILITATION ACT); PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY (1998) 524 U.S. 206 [118 S. Ct. 1952; 141 L. Ed. 215]. (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 1.]

1) PLAINTIFF ASSERT THAT M. PENNER (M.D) DIAGNOSED HIM WITH SEVERE SIGNIFICANT COLLAGEN VASCULAR DISEASE; AND SCOTT T. ANDERSON M.D, PH.D (PHYSICIAN AND SURGEON) DIAGNOSED HIM WITH POST-TRAUMATIC DEGENERATIVE ARTHRITIS; ELANA HARWAY (M.D) RECOMMENDED THE NEED FOR (R) KNEE SURGERY AND THAT IT MAY REQUIRE MORE THAN ONE RECONSTRUCTIVE PROCEDURE AND THAT PLAINTIFF HAS A "VALGUS DEFORMITY" OF THE (R) KNEE; FRANK HARTWICK, (M.D) DID A MRI OF THE (R) KNEE AND HIS RADIOLOGY REPORT FINDING IT IS STATED THAT PLAINTIFF HAVE A LATERAL MENISCAL TEAR AND PLAINTIFF IS PENDING SURGERY. AND SAID MEDICAL CONDITIONS ARE VERY SERIOUS IN NATURE, THAT DEBILITATES AND IMPAIRS PLAINTIFFS ABILITY TO FUNCTION NORMAL AND INTERFERE WITH DAILY ACTIVITY. PLAINTIFF HAVE BEEN EXPERIENCING PAIN FOR A NUMBER OF YE-

2) ARS; AND AS A RESULT, SEVERAL COMPREHENSIVE ACCOMMODATION CHRONO'S WERE PREPARED BY TENDING PHYSICIAN'S REQUIRING AN ACCOMMODATION DUE TO PLAINTIFF MEDICAL CONDITION'S, TO WIT 1) GROUND FLOOR CELL, 2) BOTTOM BUNK, 3) WALKING CANE, AND 4) PHYSICAL LIMITATIONS TO JOB ASSIGNMENT, TO WIT

3) (A) LIGHT DUTY, NO LIFTING, NO PULLING, AND NO PUSHING, ET. ON OR ABOUT 2-06-06, PLAINTIFF WAS PLACED IN FACILITY B, BUILDING 1, CELL # 133 AND ASSIGNED TO TO THE "UPPER BUNK". PLAINTIFF ASSERT THAT HIS THEN CELLIE WAS ASSIGNED TO THE LOWER BUNK, AND HE SUFFERED FROM A BAD BACK / BAD KNEE, AND WEIGHT WELL OVER 230 POUNDS. SGT. T. CATLETT WAS PRESENT AND PLAINTIFF MADE HIM AWARE OF THE FACT THAT PLAINTIFF'S COMPREHENSIVE ACCOMMODATION CHRONO (CDC 7410) WAS IN BUILDING 1, TOWER, REFLECTING THE NEED FOR PLAINTIFF TO BE PLACED ON THE LOWER TIER / LOWER BUNK. ON OR ABOUT 3-17-06, PLAINTIFF SUBMITTED A CDC 602 (INMATE APPEAL) WITH ATTACHED COMPREHENSIVE ACCOMMODATION CHRONOS (CDC 7410) REFLECTING REQUIRED ACCOMMODATIONS. AND

CDC 602 (INMATE APPEAL) WAS SUBMITTED TO C/O GARRETT, REQUESTING TO BE PLACED IN CELL # 144, WHICH WAS A "VACANT CELL", LOCATED IN BUILDING 1, ON THE GROUND FLOOR. ON OR ABOUT 3-17-06, C/O GARRETT GAVE PLAINTIFF BACK THE CDC 602 (INMATE COMPLAINT) AND INSTRUCTED HIM TO SUBMIT THE CDC 602 (INMATE COMPLAINT) TO HIS CO-WORKER, C/O M. ARVIZU BECAUSE HE (C/O GARRETT) DIDN'T HAVE TIME TO LOOK INTO THE ISSUE. C/O GARRETT STATED THAT HIS CO-WORKER WILL INFORM SGT. T. CATLETT ON THE SITUATION AND SUBMIT THE CDC 602 (INMATE APPEAL)

4) TO SGT. T. CATLETT. PLAINTIFF ASSERT THAT HE DID AS INSTRUCTED BY C/O GARRETT AND SUBMITTED THE CDC 602 (INMATE APPEAL) TO C/O M. ARVIZU. ON OR ABOUT 3-18-06, PLAINTIFF ASKED C/O ARVIZU DID HE GIVE THE SGT. THE CDC 602 (INMATE APPEAL) AND IS HE (SGT. T. CATLETT) GOING TO DO THE CELL MOVE? C/O M. ARVIZU STATED "THAT HE SUBMITTED THE CDC 602 (INMATE APPEAL) TO SGT. T. CATLETT, BUT THAT HE (C/O M. ARVIZU) DID NOT KNOW WHETHER OR NOT HE (SGT. CATLETT) IS GOING TO DO THE CELL MOVE." PLAINTIFF ASSERT THAT HE PERSONALLY

5) TALKED TO SGT. T. CATLETT ON TWO OCCASIONS REGARDING THE ISSUE AND WAS TOLD THAT HE (SGT. T. CATLETT) WAS GOING TO TALK TO C/O GARRETT; PLAINTIFF THEN ASKED SGT. T. CATLETT "DID HE (SGT. T. CATLETT) HAVE THE CDC 602 (INMATE APPEAL) IN HIS POSSESSION?" SGT. T. CATLETT STATED THAT "HE DID RECEIVE THE CDC 602 (INMATE APPEAL) BUT THAT HE DONT RECALL WHERE HE PLACED IT." PLAINTIFF ASSERT THAT HE WENT TO FACILITY B MEDICAL ON 3-22-06, AND MADE THE DOCTOR AND M.T.A AWARE OF THE SITUATION; THE DOCTOR AND M.T.A STATED THAT THEY WERE GOING TO TALK TO SGT. T. CATLETT BECAUSE OF THE SERIOUSNESS OF PLAINTIFF'S MEDICAL CONDITIONS. PLAINTIFF ASSERT THAT C/O HORTA TALKED TO C/O GARRETT ABOUT THE SITUATION, AND MADE HIM AWARE OF PLAINTIFF'S SERIOUS MEDICAL CONDITION BY PERSONALLY SUBMITTING A COMPREHENSIVE ACCOMMODATION CHRONO (CDC 7410), REFLECTING THE NEED TO BE PLACED ON A GROUND FLOOR CELL/BOTTOM BUNK. C/O GARRETT STATED THAT "HE HAVE TO TALK TO HIS CO-WORKER." PLAINTIFF ASSERT THAT C/O GARRETT, C/O M. ARVIZU, AND SGT. T. CATLETT HAD BEEN REPEATEDLY MADE AWARE OF THE NEED TO BE MOVED TO A BOTTOM BUNK, AND THE

SERIOUSNESS OF PLAINTIFF MEDICAL CONDITION AND THE RISK OF FURTHER INJURY. PLAINTIFF ASSERT THAT HE HAD BEEN EXPERIENCING "SEVERE PAIN / SWELLING OF THE (R) KNEE AS A RESULT OF JUMPING UP! TO THE UPPER BUNK AND COMING DOWN. AND PLAINTIFF IS CURRENTLY EXPERIENCING SEVERE PAIN IN THE (R) KNEE, PLAINTIFF ASSERT THAT CELL # 144, LOCATED AT FACILITY B, BUILDING # 1, WAS "VACANT" FOR SEVEN DAYS AND STAFF FAILED TO ACT; ASSERTING THAT SAID CELL IS LOCATED ON THE BOTTOM TIER, ELEVEN CELLS DOWN FROM PLAINTIFF'S THEN CELL # 133. PLAINTIFF ASSERT THAT SGT. T. CATLETT DID NOT ANWER SAID CDC 602 (INMATE APPEAL) ON THE "INFORMAL LEVEL" WITHIN CDCR TITLE 15 TIME LIMITS, NOR WAS SAID CDC 602 (INMATE APPEAL) RETURNED TO PLAINTIFF; AND CDC 602 (INMATE APPEAL) DATED 3-29-06 FOLLOWED AS A RESULT OF HIS FAILURE TO RESPOND (SGT. T. CATLETT). PETITIONER ASSERT THAT THE APPEALS COORDINATOR ATTACHED A REASONABLE MODIFICATION OR ACCOMMODATION REQUEST (CDC 1824) TO THE CDC 602 (INMATE APPEAL) DATED 3-29-06, (WHICH IS IN ACCORDANCE WITH THE 6) PROVISIONS OF THE AMERICAN WITH DISABILITY ACT). PLAINTIFF REASONABLE MODIFICATION OR ACCOMODATION REQUEST (CDC 1824) WAS REVIEWED BY SGT. T. CATLETT AND DENIED ON 4-25-06; AND THE DISPOSITION WAS RENDERED BY W. J. PRICE, FACILITY B, CAPTAIN, ON 4-25-06; AND APPROVED BY THE ASSOCIATE WARDEN ON 4-28-06, AND THE DATE RETURNED TO PLAINTIFF WAS ON 5-09-06; PLAINTIFF CDC 602 (INMATE APPEAL) DATED 3-29-06, WAS REVIEWED ON THE FIRST LEVEL BY W. J. PRICE, AND PARTIALLY GRANTED ON 4-25-06; PLAINTIFF REQUESTED A SECOND LEVEL REVIEW AND M. E. BOURLAND, CHIEF DEPUTY WARDEN (A), REVIEWED AND PARTIALLY GRANTED SAID APPEAL ON 5-25-06; PLAINTIFF REQUESTED A DIRECTORS LEVEL REVIEW, AND ON 6-28-06, THE DIRECTOR OF CDCR, DENIED SAID APPEAL.

7) THIS IS AN ACTION ARISING UNDER THE EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. (ADA) AND TITLE 29 OF THE UNITED STATES CODE SECTION 794 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTION AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS THEREIN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANT'S T. CATLETT (SERGEANT), GARRETT (CORRECTIONAL OFFICER), M. ARVIZU (CORRECTIONAL OFFICER), W. J. PRICE (FACILITY CAPTAIN), M. E. BOURLAND (CHIEF DEPUTY WARDEN (A)), AND THE DIRECTOR OF CDCR AND OR SECRETARY OF CDCR IN CALIFORNIA; ACTED IN THEIR OFFICIAL, INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFF CIVIL AND CONSITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK.

8) DEFENDANT T. CATLETT (SERGEANT) DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

9) DEFENDANT GARRETT (CORRECTIONAL OFFICER) DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS

MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

10) DEFENDANT M. ARVIZU (CORRECTIONAL OFFICER) DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

11) DEFENDANT W.J. PRICE (FACILITY CAPTAIN) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

12) DEFENDANT M.E BOURLAND (CHIEF DEPUTY WARDEN (A)) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

13) DEFENDANT DIREECTOR OF CDCR AND OR SECRETARY OF CDCR DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH

CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

14) THE DEFENDANTS AND EACH OF THE FORE MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT REPEATED DENIAL OF PLAINTIFFS COMPREHENSIVE ACCOMMODATION TO BE PLACED ON A BOTTOM BUNK WAS AN UNCONSTITUTIONAL ACT. WHICH THEY WERE REQUIRED TO PREVENT OR REPORT AS AN ACT OF MISCONDUCT. THE PLAINTIFF OF THE FORE GOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS COMPENSATORY AND PUNITIVE DAMAGES IN THE AMOUNT OF FIFTY-THOUSAND DOLLARS OR AN AWARD BY TRIAL OR JURY.

15) RELIEF.

WHEREFORE, PLAINTIFF OF THE INSTANT AND FORE GOING ACTIONS, PRAYS FOR THE FOLLOWING RELIEF AGAINST ALL DEFENDANTS MENTION HEREIN.

SEVERALLY AND INDIVIDUALLY BY SUMMARY OF JUDGEMENT, OF THIS DISTRICT COURT, OR ON DETERMINATION OF ACTUAL DAMAGES WHOSE AMOUNT ARE TO BE PROVED AT TRIAL BY JURY.

B) JUDGEMENT AGAINST DEFENDANTS FOR COMPENSATORY DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

C) AGAINST DEFENDANTS, FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

D) JUDGEMENT AGAINST THE DEFENDANTS AND ALL OF THEM FOR ATTORNEYS FEES, AS WELL AS REASONABLE COMPENSATION FOR INVESTIGATION ON BEHALF OF THE PLAINTIFF REQUEST FOR APPOINTMENT OF COUNSEL.

E) ANY AND ALL OTHER RELIEF AS MAY BE DEEMED APPROPRIATE BY THIS DISTRICT COURT OR OF WHICH THE PLAINTIFF MAY BE ENTITLED.

Count 2: The following civil right has been violated: 1ST AMEND. (INTERFERED WITH / DENIED MEDICAL TREATMENT); 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT); 14TH AMEND.- (EQUAL PROTECTION / DUE PROCESS); 42 U.S.C. § 12131 et. Seq. (ADA); 29 U.S.C. § 794 (REHABILITATION ACT); PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY (1998) 524 U.S. 206 [118 S. Ct. 1952; 141 L. Ed. 2d. 215]. (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 2.]

16) PLAINTIFF RE-ALLEGES AND INCORPORATE BY REFERENCE EACH ALLEGATION IN PARAGRAPHS NO. 1) INCLUSIVE AS IF ALLEGED HEREIN. PLAINTIFF ASSERT THAT ON 2-14-07, THE CHIEF MEDICAL OFFICIAL APPROVED THE RE-NEWAL OF HIS COMPREHENSIVE ACCOMMODATION CHRONO (CDC 7410) FOR PLAINTIFF TO POSSESS A MEDICAL APPLIANCE / EQUIPMENT TO WIT, A WALKING CANE. PLAINTIFF ASSERT THAT ON 8-17-07, HE WAS REMOVED FROM GENERAL POPULATION AND PLACED IN ADMINISTRATIVE SEGREGATION FOR AN ALLEGED RULE VIOLATION. ON 8-17-07, SGT. T. CATLETT AUTHORED AND GENERATED A FALSIFIED CDC 128-B GENERAL CHRONO (INFORMATIONAL-PROPERTY CONFISCATION) AUTHORIZING AND APPROVING CONFISCATION OF PLAINTIFF'S WALKING CANE. SGT. T. CATLETT USED AS A REFERENCE CRIME INCIDENT REPORT, LOG # CAL-FBY-07-08-0240, AND FALSELY FABRICATED A STATEMENT ALLEGING TO BE IN THE CRIME INCIDENT REPORT AS MEANS TO PREVENT PLAINTIFF FROM EVER BEING ABLE TO POSSESS A WALKING CANE.

17) LT. R. JOHNSON FALSIFIED AND FABRICATED ALLEGATIONS IN HIS CDCR 837-A, A1 COVER SHEET / SUPPLEMENTAL REPORT DATED 8-17-07, WHICH SET IN MOTION THE CRIMINAL ACT COMMITTED BY SGT. T. CATLETT. PLAINTIFF ASSERT THAT SGT. T. CATLETT AND LT. R. JOHNSON WERE AND IS AWARE OF THE SERIOUSNESS OF PLAINTIFF MEDICAL CONDITIONS AND THE RISK OF FURTHER INJURY. PLAINTIFF ASSERT THAT HE HAD BEEN EXPERIENCING "SEVERE PAIN / SWELLING OF THE (R) KNEE" AS A RESULT OF THE ACTS COMMITTED BY SGT. T. CATLETT AND LT. R. JOHNSON. AND PLAINTIFF IS CURRENTLY EXPERIENCING SEVERE PAIN IN THE (R) KNEE.

18) PLAINTIFF ASSERT THAT ON 9-12-07, HE FILED A CDC 602 (INMATE APPEAL); AND ON 10-16-07, SAID APPEAL WAS PARTIALLY GRANTED ON THE FIRST LEVEL BY LT. R. JOHNSON; ASSERTING PLAINTIFF REQUESTED A SECOND LEVEL REVIEW, AND ON , SAID (PLEASE SEE NEXT PAGE) . . .

APPEAL WAS PARTIALLY GRANTED ON THE SECOND LEVEL BY C.D.W T. OCHOA; ASSERTING PLAINTIFF REQUESTED A DIRECTOR'S LEVEL REVIEW, AND ON SAID APPEAL WAS ON THE DIRECTOR'S LEVEL.

19) THIS IS AN ACTION ARISING UNDER THE FIRST, EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. (ADA) AND TITLE 29 OF THE UNITED STATES CODE SECTION 794 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICANS WITH DISABILITIES ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS THEREIN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANT'S T. CATLETT (SERGEANT), R. JOHNSON (LIEUTENANT), T. OCHOA (CHIEF DEPUTY WARDEN) AND THE DIRECTOR OF CDCR AND OR SECRETARY OF CDCR IN CALIFORNIA; ACTED IN THEIR OFFICIAL, INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFF CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

20) DEFENDANT T. CATLETT (SERGEANT) DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE AND INTERFERED WITH/DENIED MEDICAL TREATMENT, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED OR ACCOMMODATED

WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

21) DEFENDANT R. JOHNSON (LIEUTENANT) DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE AND INTERFERED WITH / DENIED MEDICAL TREATMENT, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED OR ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

22) DEFENDANT T. OCHOA (CHIEF DEPUTY WARDEN) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMODATION TO POSSESS A WALKING CANE AND INTERFERED WITH / DENIED MEDICAL TREATMENT, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED OR ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

23) DEFENDANT DIRECTOR OF CDCR AND OR SECRETARY OF CDCR DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE AND INTERFERED WITH / DENIED MEDICAL TREATMENT, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED OR ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

24) THE DEFENDANT'S AND EACH OF THE FORE MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT THE DENIAL OF PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE AND INTERFERENCE WITH / DENIED MEDICAL TREATMENT, AND THE FALSIFICATION OF DOCUMENTS,

AND FABRICATED STATEMENT SUBMITTED ON A GOVERNMENT FORM TO A STATE AGENCY AGAINT ANY PERSON OR PRISONER INTENDED SPECIFICALLY FOR PUNISHMENT, WAS ILLEGAL AND UNCONSTITUTIONAL ACT. WHICH THEY WERE REQUIRED TO PREVENT OR REPORT AS AN ACT OF CRIMINAL MISCONDUCT. THE PLAINTIFF OF THE FORE GOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS COMPENSATORY AND PUNITIVE DAMAGES IN THE AMOUNT OF FIFTY-THOUSAND DOLLARS OR AN AWARD BY TRIAL OR JURY.

25) RELIEF.

WHERE FORE, PLAINTIFF OF THE INSTANT AND FORE GOING ACTIONS, PRAYS FOR THE FOLLOWING RELIEF AGAINST ALL DEFENDANTS MENTION HEREIN, SEVERALLY AND INDIVIDUALLY BY SUMMARY JUDGEMENT, OF THIS DISTRICT COURT, OR ON DETERMINATION OF ACTUAL DAMAGES WHOSE AMOUNT ARE TO BE PROVED AT TRIAL BY JURY.

B) JUDGEMENT AGAINST DEFENDANTS FOR COMPENSATORY DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

C) AGAINST DEFENDANTS, FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

D) JUDGEMENT AGAINST THE DEFENDANTS AND ALL OF THEM FOR ATTORNEY FEES, AS WELL AS REASONABLE COMPENSATION FOR INVESTIGATION ON BEHALF OF THE PLAINTIFF REQUEST FOR APPOINTMENT OF COUNSEL.

E) ANY AND ALL OTHER RELIEF AS MAY BE DEEMED APPROPRIATE BY THIS DISTRICT COURT OR OF WHICH THE PLAINTIFF MAY BE ENTITLED.

Count 3: The following civil right has been violated: 8TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT) 14TH AMEND. (EQUAL PROTECTION/ DUE PROCESS); 42 U.S.C § 12131 et. Seq. (ADA); 29 U.S.C. § 794 (REHABILITATION ACT); PENNSYLVANIA DEPT. OF CORRECTIONS V. YESKEY (1998) 524 U.S. 206 (118 S. Ct. 1952; 141 L. Ed. 2d. 215). (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

PLAINTIFF RE-ALLEGES AND INCORPORATE BY REFERENCE EACH ALLEGATION IN PARAGRAPHS NO. 1) INCLUSIVE AS IF ALLEGED HEREIN. PLAINTIFF ASSERT THAT ON 8-23-07, HE APPEARED BEFORE ICC (COMMITTEE) CONCERNING HIS PLACEMENT IN ADMINISTRATIVE SEGREGATION. PLAINTIFF WAS FORCED TO WALK A DISTANCE TO THE HEARING WITHOUT THE ACCOMMODATION REQUIREMENT TO WIT, WALKING CANE. AND THE CHAIRMAN OF COMMITTEE G.J. JANDA OBSERVED PLAINTIFF LIMPING BADLY WHILE ENTERING THE ROOM OR PLACE INWHICH THE HEARING WAS HELD. G.J. JANDA (CHAIRMAN OF COMMITTEE) THEN ASKED PLAINTIFF "WHAT IS WRONG WITH YOUR LEG"? AND PLAINTIFF MADE G.J. JANDA (CHAIRMAN OF COMMITTEE) AWARE OF THE FACT THAT HIS CANE WAS UN-JUSTLY CONFISCATED ON 8-17-07; AND EXPRESSED IN GREAT DETAIL THE SERIOUSNESS OF PLAINTIFF MANY MEDICAL CONDITIONS, WHICH HE WAS AWARE OF BECAUSE PLAINTIFF'S CENTRAL FILE WAS BEFORE HIM. PLAINTIFF MADE G.J. JANDA (CHAIRMAN OF COMMITTEE) AWARE OF THE FACT THAT PLAINTIFF HAVE BEEN IN "SEVERE PAIN AND THAT PLAINTIFF (R) KNEE HAS BEEN SWELLING" AS A RESULT OF THE UNJUST CONFISCATION OF PLAINTIFF WALKING CANE. PLAINTIFF ASSERT THAT G.J. JANDA (CHAIRMAN OF COMMITTEE) THEN INSTRUCTED CORRECTIONAL OFFICER WHIDMAN TO "GO AND GET PLANTIFF HIS OR A WALKING CANE"; BUT THIS WAS NOT DONE. PLAINTIFF WAS ONLY ISSUED A HEALTH CARE SERVICES REQUEST FORM (CDC 7362) BY CORRECTIONAL OFFICER WHIDMAN AND PLAINTIFF WAS INSTRUCTED TO FILL OUT AND SUBMIT IT TO MEDICAL (THIS ACT WAS COMMITTED OUTSIDE OF THE PRESENSE OF G.J. JANDA WHOM IS NOT ONLY THE CHAIRMAN OF COMMITTEE, HE IS ALSO "THE ASSOCIATE WARDEN".). PLAINTIFF REPEATEDLY ASKED CORRECTIONAL OFFICER WHIDMAN FOR HIS OR A WALKING CANE FOR NEARLY A MONTH. PLAINTIFF WAS EXPERIENCING SEVERE (PLEASE SEE NEXT PAGE)...

PAIN AND SWELLING OF THE (R) KNEE AND PLAINTIFF SUBMITTED SEVERAL HEALTH CARE SERVICES REQUEST (CDC 7362) REQUESTING A WALKING CANE AND PAIN MEDICATION DOS-TO INCREASE. PLAINTIFF ASSERT THAT ON 8-27-07, AND 8-29-07, L.V.N AUGERS AND R.N C. RODILES, BOTH MADE PLAINTIFF AWARE OF THE FACT THAT CUSTODY WAS PREVENTING PLAINTIFF FROM RECEIVING A WALKING CANE. ON 9-11-07, PLAINTIFF

29) FILED A REASONABLE MODIFICATION OR ACCOMMODATION REQUEST (CDC 1824) (WHICH IS ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA)) ON 9-20-07, PLAINTIFF WAS INTERVIEWED BY R. NELSON, JR. (LIEUTENANT), AND R. NELSON, JR. (LIEUTENANT) GRANTED PLAINTIFF ACCOMMODATION REQUEST (CDC 1824); AND ON 9-25-07, G.J. JANDA (ASSOCIATE WARDEN), APPROVED, R. NELSON, JR. (LIEUTENANT) DISPOSITION.

30) THIS IS AN ACT ARISING UNDER THE EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. (ADA) AND TITLE 29 OF THE UNITED STATES SECTION 794 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF'S CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICANS WITH DISABILITY ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTION AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS THEREIN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANTS WHIDMAN (CORRECTIONAL OFFICER), R. NELSON, JR. (LIEUTENANT) AND G. J. JANDA (ASSOCIATE WARDEN), ACTED IN THEIR OFFICIAL / INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFFS CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION, TO WIT, WALKING CANE.

31) DEFENDANT WHIDMAN (CORRECTIONAL OFFICER) DELIBERATELY INDIFFERENTLY

DENIED PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, AND COMMITTED AN ACT OF INSUBORDINATION WHEN DEFENDANT WHIDMAN FAILED TO CARRY-OUT THE ORDER GIVEN BY HIS SUPERIOR, G. J. JANDA (ASSOCIATE WARDEN), KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY; ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTING PHYSICAL MENTAL ANGUISH.

32) DEFENDANT R. NELSON, JR. (LIEUTENANT) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY; ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

33) DEFENDANT G. J. JANDA (ASSOCIATE WARDEN) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF PLAINTIFF COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT ACCOMMODATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

34) THE DEFENDANT'S AND EACH OF THE FORE MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT THE DENIAL OF PLAINTIFF'S COMPREHENSIVE ACCOMMODATION TO POSSESS A WALKING CANE, AND ACT OF INSUBORDINATION, WAS IN VIOLATION OF 15 CCR AND UNCONSTITUTIONAL ACT. WHICH THEY WERE REQUIRED TO REPORT AS AN ACT OF MISCONDUCT. THE PLAINTIFF OF THE FORE GOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE

SEEKS COMPENSATORY AND PUNITIVE DAMAGES IN THE AMOUNT OF FIFTY-THOUSAND DOLLARS OR AN AWARD BY TRIAL OR JURY.

35) RELIEF.

WHEREFORE, PLAINTIFF OF THE INSTANT AND FOREGOING ACTIONS, PRAYS FOR THE FOLLOWING RELIEF AGAINST ALL DEFENDANTS MENTION HEREIN. SEVERALLY AND INDIVIDUALLY BY SUMMARY JUDGEMENT, OF THE DISTRICT COURT, OR ON DETERMINATION OF ACTUAL DAMAGES WHOSE AMOUNT ARE TO BE PROVED AT TRIAL BY JURY.

B) JUDGEMENT AGAINST DEFENDANTS FOR COMPENSATORY DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

C) AGAINST DEFENDANTS, FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

D) JUDGEMENT AGAINST THE DEFENDANT'S AND ALL OF THEM FOR ATTORNEY FEES, AS WELL AS REASONABLE COMPENSATION FOR INVESTIGATION ON BEHALF OF THE PLAINTIFF REQUEST FOR APPOINTMENT OF COUNSEL.

E) ANY AND ALL OTHER RELIEF AS MAY BE DEEMED APPROPRIATE BY THIS DISTRICT COURT OR OF WHICH THE PLAINTIFF MAY BE ENTITLED.

Count 4: The following civil right has been violated: 1 ST AMEND. (DENIED TREATMENT/ MEDICATION); 8 TH AMEND. (CRUEL AND UNUSUAL PUNISHMENT); 14 TH AMEND. (DUE PROCESS). (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Count 3.]

36) PLAINTIFF RE-ALLEGES AND INCORPORATE BY REFERENCE EACH ALLEGATION IN PARAGRAPHS NO. 1) INCLUSIVE AS IF ALLEGED HEREIN. PLAINTIFF ASSERT THAT ON OR ABOUT MAY OF 2007, HE WAS TAKEN TO AN OUT-SIDE HOSPITAL AND EXAMINED AND PRESCRIBED PAIN MEDICATION BY AN ORTHO-SPECIALIST (NAME UNKNOWN). THE ORTHO SPECIALIST PRESCRIBED "TRAMADOL HYDROCHLORIDE 50 MG TABLET." PLAINTIFF ASSERT THAT ON

37) 6-17-07, AT 4:40 P.M, D. NOREIGA (LVN) GAVE PLAINTIFF HIS PAIN MEDICATION, RECEIVED FOR THE "FIRST TIME", TO WIT, "TRAMADOL HYDROCHLORIDE 50 MG TABLET". D. NOREIGA (LVN) STATED THAT SHE DONT KNOW WHY PLAINTIFF HAVE NOT BEEN RECEIVING HIS PAIN MEDICATION, AND D. NOREIGA (LVN) DID NOT KNOW WHEN SAID MEDICATION WAS APPROVED, AND STATED THAT SHE WILL LET PLAINTIFF KNOW TOMORROW. PLAINTIFF ASSERT THAT ON

38) 6-18-07, AT OR ABOUT 7:15 AM, D. NOREIGA (LVN) WAS PASSING OUT MEDICATION TO PATIENT/INMATES AND PLAINTIFF REQUESTED HIS PAIN MEDICATION? D. NOREIGA (L.V.N) DID NOT HAVE PAIN MEDICATION FOR PLAINTIFF, NOR DID D. NOREIGA (LVN) RECALL GIVEN PLAINTIFF HIS PAIN MEDICATION ON 6-17-07, NOR COULD D. NOREIGA (LVN) GIVE THE DATE OF APPROVAL FOR SAID PAIN MEDICATION. D. NOREIGA (LVN) THEN WROTE PLAINTIFF NAME DOWN AND SAID SHE WILL CHECK INTO THE MATTER. BUT PLAINTIFF WAS NEVER INFORMED BY D. NOREIGA (LVN). PLAINTIFF ASSERT THAT D. NOREIGA (LVN) AND OTHER MEDICAL STAFF WAS MADE AWARE OF THE FACT THAT PLAINTIFF WAS IN SEVERE PAIN WHEN HE WAS DENIED HIS PAIN MEDICATION.

39) PLAINTIFF ASSERT THAT ON 6-18-07, HE FILED A CDC 602 (INMATE APPEAL); AND ON 7-20-07, PLAINTIFF WAS INTERVIEWED BY J.M. SALGADO, (R.N) FOR THE FIRST LEVEL OF THE APPEAL. J.M. SALGADO (R.N)

ALLEGED THAT THE MEDICATION (TRAMADOL) WAS ORDERED ON 5-23-07, BUT WAS NEVER NOTED; AND PARTIALLY GRANTED THE APPEAL, AND M. CORREA, (R.N) (SUPERVISING REGISTERED NURSE II) APPROVED THE DECISION ON OR ABOUT 7-24-07; ASSERTING PLAINTIFF REQUESTED A SECOND LEVEL REVIEW, AND ON 8-30-07, SAID APPEAL WAS PARTIALLY GRANTED BY M. CORREA, (R.N) (SUPERVISING REGISTERERED NURSE II), AND K. BALL, (D.O),. (CP$S) (CHIEF PHYSICIAN/SURGEON) APPROVED, THE DECISION ON OR ABOUT 8-30-07; AND REQUESTED A DIRECTOR'S LEVEL REVIEW, AND ON 12-14-07, SAID APPEAL WAS DENIED, BY V. O'SHAUGHNESSY (APPEAL EXAMINER), REVIEWED THE MATTER FOR THE DIRECTOR OF CDCR.

40) THIS IS AN ACTION ARISING UNDER THE FIRST, EIGHT AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND TITLE 42 OF THE UNITED STATES CODE SECTION 1981 AND 1983 AND 12131 et seq. (ADA) AND TITLE 29 OF THE UNITED STATES CODES SECTION 794 (REHABILITATION ACT), ALLEGING VIOLATIONS OF PLAINTIFF CIVIL AND HUMAN RIGHTS, AND RIGHTS UNDER THE AMERICAN WITH DISABILITY ACT AND THE REHABILITATION ACT, WHILE IN THE CUSTODY OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS THEREIN AT CALIPATRIA STATE PRISON. PLAINTIFF NEHEMIAH ROBINSON, WAS INJURED PHYSICALLY, MENTALLY AND EMOTIONALLY WHEN CORRECTIONAL OFFICERS AND CORRECTIONAL OFFICIALS DEFENDANT'S D. NORIEGA (L.V.N), J.M SALGADO (R.N), M. CORREA, (R.N) (SUPERVISING REGISTERED NURSE II), K. BALL, (D.O),. (CP$S) (CHIEF PHYSICIAN/SURGEON), V. O'SHAUGHNESSY (APPEAL EXAMINER), AND THE DIRECTOR OF CDCR AND OR SECRETARY OF CDCR IN CALIFORNIA; ACTED IN THEIR OFFICIAL, INDIVIDUAL CAPACITY TO VIOLATE THE PLAINTIFF CIVIL AND CONSTITUTIONAL RIGHTS WHEN INDIVIDUALLY AND COLLECTIVELY DELIBERATELY INDIFFERENTLY DENIED PLAINTIFF TREATMENT/PAIN MEDICATION FOR MONTHS.

41) DEFENDANT D. NORIEGA (L.V.N) DELIBERATELY INDIFFERENTLY DENIED TREATMENT/PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL...

EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

42) DEFENDANT J.M. SALGADO (RN) DELIBERATELY INDIFFERENTLY DENIED TREATMENT / PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

43) DEFENDANT M. CORREA, (RN) (SUPERVISING REGISTERED NURSE II) DELIBERATELY INDIFFERENTLY DENIED TREATMENT / PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

44) DEFENDANT K. BALL, (D.O), (CP$S) (CHIEF PHYSICIAN / SURGEON) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF TREATMENT / PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

45) DEFENDANT V. O'SHAUGHNESSY (APPEAL EXAMINER) DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF TREATMENT / PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

46) DEFENDANT DIRECTOR OF CDCR AND OR SECRETARY OF CDCR DELIBERATELY INDIFFERENTLY PARTICIPATED IN THE DENIAL OF TREATMENT / PAIN MEDICATION FOR MONTHS, KNOWING THAT PLAINTIFF SUFFERS FROM A SERIOUS MEDICAL CONDITION AND DISABILITY, ONE THAT MAY PRODUCE

DEGENERATION AND EXTREME PAIN IF NOT TREATED WHICH CAUSED PLAINTIFF MENTAL EMOTIONAL DISTRESS AND SUBSTANTIATING PHYSICAL MENTAL ANGUISH.

47) THE DEFENDANTS AND EACH OF THE FORE MENTIONED IN THIS COMPLAINT KNEW OR SHOULD HAVE KNOWN THAT THE DENIAL OF PLAINTIFF'S TREATMENT / PAIN MEDICATION FOR MONTHS, WAS IN VIOLATION OF THE SETTLEMENT AGREEMENT REACHED IN "PLATA V. DAVIS", AND UNCONSTITUTIONAL ACT. WHICH THEY WERE REQUIRED TO REPORT AS AN ACT OF MISCONDUCT. THE PLAINTIFF OF THE FORE GOING ACTION ALLEGES THAT HE HAS BEEN DAMAGED AND SUFFERS FROM SEVERE PAIN AND DISABILITY FOR WHICH HE SEEKS COMPENSATORY AND PUNITIVE DAMAGES IN THE AMOUNT OF FIFTY-THOUSAND DOLLARS OR AN AWARD BY TRIAL OR JURY.

48) RELIEF.

WHEREFORE, PLAINTIFF OF THE INSTANT AND FORE GOING ACTIONS, PRAYS FOR THE FOLLOWING RELIEF AGAINST ALL DEFENDANTS MENTION HEREIN. SEVERALLY AND INDIVIDUALLY BY SUMMARY JUDGEMENT, OF THE DISTRICT COURT, OR ON DETERMINATION OF ACTUAL DAMAGES WHOSE AMOUNT ARE TO BE PROVED AT TRIAL BY JURY.

B) JUDGEMENT AGAINST DEFENDANTS FOR COMPENSATORY DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

C) AGAINST DEFENDANTS, FOR PUNITIVE DAMAGES IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS.

D) JUDGEMENT AGAINST THE DEFENDANT'S AND ALL OF THEM FOR ATTORNEY FEES, AS WELL AS REASONABLE COMPENSATION FOR INVESTIGATION ON BEHALF OF THE PLAINTIFF REQUEST FOR APPOINTMENT OF COUNSEL.

E) ANY AND ALL OTHER RELIEF AS MAY BE DEEMED APPROPRIATE BY THIS DISTRICT COURT OR OF WHICH THE PLAINTIFF MAY BE ENTITLED.

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☑ Yes ☐ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:
Plaintiffs: NEHEMIAH ROBINSON, J-71342.
Defendants: 1) K. TODD, 2) M. PENNER, 3) B. SWIFT, 4) L.T. DOVEY, 5) P. VANCOR, 6) J. TURELLA, 7) G. BORGES, 8) B. KING, 9) J. STOCKER.

(b) Name of the court and docket number: IN THE UNITED STATES DISTRICT COURT, FOR THE EASTERN DISTRICT OF CALIFORNIA. NO. CIV-S-05-1999 LKK CMK P.

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?]

(d) Issues raised: DELIBERATELY INDIFFERENTLY TO PLAINTIFF'S SERIOUS MEDICAL NEED, DENIED MEDICATION AND TREATMENT, INTERFERED WITH PRESCRIBED TREATMENT, AND DENIED RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES, AS ALLEGED IN CLAIMS 1-3 OF THE COMPLAINT.

(e) Approximate date case was filed: MAY 26, 06.

(f) Approximate date of disposition:

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☑ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.
PLEASE SEE PARAGRAPHS: 6, 18, 29, AND 39, OF THE COMPLAINT.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): PLEASE SEE PARAGRAPHS: 15, 25, 35, AND 48, OF THE COMPLAINT.

2. Damages in the sum of $ PLEASE SEE PARAGRAPHS: 15, 25, 35, AND 48 OF THE COMPLAINT.

3. Punitive damages in the sum of $ ______.

4. Other: ______

F. Demand for Jury Trial

Plaintiff demands a trial by ☑ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☑ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

1-22-08.
Date

[signature]
Signature of Plaintiff

F. VERIFICATION

PURSUANT TO 28 U.S.C § 1746, I DECLARE AND VERIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT

DATE JANUARY 22, 08.

SIGNATURE Mr. Nehemiah Robinson

NEHEMIAH ROBINSON J-71342

DECLARATION UNDER PENALTY OF PERJURY OF NEHEMIAH ROBINSON

NEHEMIAH ROBINSON J-71342, IS THE PLAINTIFF IN THIS ACTION, AND BEING COMPETENT TO MAKE THIS DECLARATION AND HAVING PERSONAL KNOWLEDGE OF THE MATTERS STATED THEREIN, DECLARES PURSUANT TO 28 U.S.C § 1746:

1. I AM THE PLAINTIFF IN THIS ACTION
2. THAT THE MONEY RECEIVED FROM FRIENDS AND FAMILY IS FOR MEANS OF SUPPORTING ME, MY SON, AND COUSIN.
3. THAT I'M IN NO FINANCIAL POSITION TO PAY THE COSTS WITHOUT DEPRIVING MYSELF AND FAMILY OF THE NECESSITIES OF LIFE.
4. THAT I AM SERVING A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE.
5. THAT PLAINTIFF IS CURRENTLY SUING AS A PAUPER (INFORMA PAUPERIS) IN A MATTER BEFORE THE UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA, CASE NO. CIV S-05-1499-LKK-CMK-P.
6. THAT IT WILL TAKE "TWO OR THREE WEEKS" FOR THE TRUST OFFICE TO RETURN THE DECLARATION REFLECTING PLAINTIFF ACCOUNT BALANCE AND PLAINTIFF HAVE ATTACHED RAHSAAN THOMAS T-99595, LAW LIBRARIAN, HERE AT CALIPATRIA STATE PRISON, DECLARATION FOR MEANS OF SUPPORT;
7. THAT PLAINTIFF STATUTE LIMITATION DEADLINE FOR COUNT #1, OF THE COMPLAINT IS ON OR ABOUT FEBRUARY 06, 08, AND IF PLAINTIFF WAS TO WAIT "TWO OR THREE WEEKS" FOR THE TRUST OFFICE TO RETURN THE DECLARATION REFLECTING PLAINTIFF ACCOUNT BALANCE, HE WOULD PROCEDURALLY DEFAULT.

8. THAT PLAINTIFF WAS UNABLE TO FILE THIS COMPLAINT DUE TO THE ON-GOING CONSTITUTIONAL VIOLATION, AND DUE TO THE EXHAUSTING OF ADMINISTRATIVE REMEDIES.

PURSUANT TO 28 U.S.C. § 1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON JANUARY 22, 08.

DECLARANT Mr. Nehemiah Robinson

NEHEMIAH ROBINSON J-71342

DECLARATION

I, RAHSAAN THOMAS T-99595, BEING DULY SWORN DECLARES AS FOLLOWS:

THE MATTER SET FORTH IN THIS DECLARATION ARE OF MY OWN KNOWLEDGE AND IF CALLED AS A WITNESS, I WOULD COMPLETELY AND COMPETENTLY TESTIFY TO THE MATTERS SET FORTH HERE IN.

1. ON 10-26-06, INMATE NEHEMIAH ROBINSON J-71342, REQUESTED TO KNOW HOW LONG IT WOULD TAKE FOR THE TRUST OFFICE TO RETURN HIS DECLARATION REFLECTING HIS ACCOUNT BALANCE, SUBMITTED TO STAFF, HERE AT CALIPATRIA STATE PRISON, ON OR ABOUT 10-22-06;

2. I, RAHSAAN THOMAS T-99595, LAW LIBRARIAN, HERE AT CALIPATRIA STATE PRISON, INFORMED INMATE NEHEMIAH ROBINSON J-71342, THAT IT WILL TAKE "TWO OR THREE WEEKS" FOR THE TRUST OFFICE TO RETURN THE DECLARATION REFLECTIN HIS ACCOUNT BALANCE; AND TO,

3. FILE THE BOARD OF CONTROL CLAIM TODAY, SINCE HE HAVE A DEADLINE TO MEET; AND SEND THE DECLARATION REFLECTING HIS ACCOUNT BALANCE UPON RECEIPT.

I DECLARE UNDER PENALTY OF PERJURY LAWS IN THE STATE THAT THE FORGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: OCTOBER 26, 2006.

DECLARANT

Rahsaan Thomas

Nehemiah Robinson J-71342
CaliPatria State Prison (A-5-148)
P.O. Box 5004
Calipatria, Ca. 92233

IN PROPRIA PERSONAM

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH ROBINSON,

Plaintiff,

v.

T. CATLETT, et, al.

Defendant's.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR APPOINTMENT OF COUNSEL

CIVIL ACTION NO. ______________

PLAINTIFFS MOVE THIS COURT FOR AN ORDER PERMITTING HIM TO FILE THIS ACTION IN FORMA PAUPERIS WITHOUT PREPAYMENT OF FEES AND COSTS OR SECURITY THEREFOR, AND APPOINTING A MEMBER OF THE CALIFORNIA BAR TO REPRESENT PLAINTIFF AS PROVIDED IN 28 U.S.C. SEC. 1915(d) AND 18 U.S.C. SEC. 3006A(g), BECAUSE, AS THE ATTACHED DECLARATIONS INDICATE, PLAINTIFF IS UNABLE TO PAY SUCH COSTS OR GIVE SECURITY THEREFOR, AND HE CAN NOT AFFORD TO EMPLOY AN ATTORNEY. THIS MOTION IS BASED ON THE COMPLAINT AND DECLARATION'S SUBMITTED HERE WITH.

DATED: JANUARY 22, 08.

SIGNATURE Mr. Nehemiah Robinson

NEHEMIAH ROBINSON J-71342
CALIPATRIA STATE PRISON (A-5-148)
P.O. BOX 5004
CALIPATRIA, CA. 92233
IN PROPRIA PERSONAM

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

NEHEMIAH ROBINSON,

Plaintiff,

V. ORDER

T. CATLETT, et, al.

Defendant's. CIVIL ACTION NO.____________

THIS MATTER HAVING COME ON REGULARLY FOR HAVING A HEARING BEFORE THE UNDERSIGNED JUDGE ON THE MOTION OF THE PLAINTIFF FOR LEAVE TO PROCEED WITH THIS ACTION IN FORMA PAUPERIS AND FOR APPOINTMENT OF COUNSEL, AND IT APPEARING TO THE COURT THAT PLAINTIFF IS ENTITLED TO THE RELIEF HE SEEK BY THIS MOTION, IT IS HEREBY,

ORDERED THAT PLAINTIFF IS AUTHORIZED TO PROCEED WITH THIS ACTION IN FORMA PAUPERIS, WITHOUT BEING REQUIRED TO PAY FEES AND COSTS OR GIVE SECURITY FOR HIM, AND IT IS FURTHER

ORDERED THAT ANY RECOVERY IN THIS ACTION SHALL BE PAID TO THE CLERK OF THE COURT WHO MAY PAY THERE FROM ALL UNPAID FEES AND COSTS TAXED AGAINST THE PLAINTIFF, AND REMIT THE BALANCE TO THE PLAINTIFF, AND IT IS FURTHER

ORDERED THAT COUNSEL THE COURT DEEM APPROPRIATE, A MEMBER OF THE CALIFORNIA BAR, IS HEREBY APPOINTED TO REPRESENT THE PLAINTIFF IN THIS MATTER UNTIL RELIEVED BY ORDER OF THE DISTRICT COURT.

UNITED STATES DISTRICT JUDGE

DATED:

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, NEHEMIAH ROBINSON J-71342 DECLARE UNDER PENALTY OF PERJURY THAT: I AM THE PLAINTIFF IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 22ND. DAY OF: JANUARY 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) [signature]
(DECLARANTIPRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, NEHEMIAH ROBINSON J-71342 AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM / NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002. CALIPATRIA, CALIFORNIA #92233-5002.

ON JANUARY 22, 2008 I SERVED THE FOREGOING: (ORIGINAL AND TWO COPIES) 1) COMPLAINT UNDER THE CIVIL RIGHTS ACT 42 U.S.C §1983, 2) VERIFICATION, 3) DECLARATION OF NEHEMIAH ROBINSON J-71342, 4) DECLARATION OF RAHSAAN THOMAS T-99595, 5) MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND FOR APPOINTMENT OF COUNSEL, AND 6) PROPOSED ORDER.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

CRERK OF U.S. DISTRICT COURT
880 FRONT STREET, ROOM 4290
SAN DIEGO, CA. 92101-8900

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED.
I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: JANUARY 22, 2008 [signature]
(DECLARANTIPRISONER)

JS44
(Rev. 07/89)

CIVIL COVER SHEET

FILED
JAN 2 5 2008
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

2254 ___ 1983 ✓
FILING FEE PAID
Yes ___ No ✓
IFP MOTION FILED
Yes ___ No ___
COPIES SENT TO
Court ___ Pro Se ___

I (a) PLAINTIFFS: **Nehemiah Robinson**

DEFENDANTS: **T. Catlett, et al**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Imperial
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Nehemiah Robinson
PO Box 5004
Calipatria, CA 92233
J-71342

ATTORNEYS (IF KNOWN)

'08 CV 0161 H BLM

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT (For Diversity Cases Only)

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

TORTS — PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury- Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc.
- ☐ Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Eiectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☒ 550 Civil Rights

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 DEMAND $ Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 1/25/2008 ~~SIGNATURE OF ATTORNEY OF RECORD~~ R.Mullers